

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 NORTHERN DISTRICT OF OKLAHOMA  
3

4 W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
5 OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
6 ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
7 TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )  
8 )

9 Plaintiff, )

10 vs. )

No. 4:05-CV-00329-TCK-SAJ

11 TYSON FOODS, INC., et al, )

12 Defendants. )  
13 - - - - -  
14

15 THE VIDEO DEPOSITION OF DAVID BERRY,  
16 produced as a witness on behalf of the Defendants, in  
17 the above styled and numbered cause, taken on the 29th  
18 day of August, 2007, in the City of Tulsa, County of  
19 Tulsa, State of Oklahoma, before me, Marlene Percefull,  
20 Certified Shorthand Reporter, duly certified under and  
21 by virtue of the laws of the State of Oklahoma.  
22  
23  
24  
25

A P P E A R A N C E S

FOR THE PLAINTIFF: Ms. Sharon K. Weaver  
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FOR CARGILL: Ms. Theresa Noble Hill  
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FOR GEORGE'S: Mr. James Graves  
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1 FOR CAL-MAINE:

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5 FOR WILLOW BROOK:

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314 East High Street  
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(via phone)

9 FOR OK DEPARTMENT OF  
10 AGRICULTURE5:

Ms. Janet Stewart  
Attorney at Law  
2800 No. Lincoln Blvd.  
Oklahoma City, OK 73152

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1 telephone also do the same? 9:05AM

2 MS. GRIFFIN: Jennifer Griffin on behalf  
3 of Willow Brook Foods.

4 MR. SANDERS: Bob Sanders on behalf of  
5 Cal-Maine. 9:05AM

6 THE VIDEOGRAPHER: Thank you. The witness  
7 may be sworn.

8 DAVID BERRY,  
9 having first been duly sworn to testify to the truth,  
10 the whole truth and nothing but the truth, testified as  
11 follows:

12 DIRECT EXAMINATION

13 BY MR. GRAVES:

14 Q Could you state your full name?

15 A David Berry. 9:05AM

16 Q And, Mr. Berry, what is your address?

17 A P.O. Box 488, Locust Grove, Oklahoma, 74352.

18 Q And do you actually live in Locust Grove or is  
19 that in the country somewhere?

20 A I live about three miles outside of Locust Grove 9:06AM  
21 in the country.

22 Q Okay. Mr. Berry, have you ever given a deposition  
23 before?

24 A Years ago.

25 Q Okay. I'll just go through a few basics of giving 9:06AM



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1 A Well, if a poultry grower sells it and he's 4:24PM  
2 getting paid for it, then I suppose it's his litter,  
3 whoever's getting the check for it who owned it.  
4 Q Okay. And then whoever pays for it?  
5 A Now it's theirs. 4:24PM  
6 Q They own it?  
7 A Yes.  
8 Q There's a fair amount of trade, if you understand  
9 what I mean, in poultry litter in the Illinois  
10 watershed, correct? 4:24PM  
11 A Correct.  
12 Q You're aware that poultry litter is transported  
13 out of the watershed, correct?  
14 A Yes, sir.  
15 Q Okay. Are you aware of who does that? 4:24PM  
16 A A little bit.  
17 Q Is it some of these commercial applicators?  
18 A Yes, sir.  
19 Q Okay. And not all poultry litter produced in the  
20 Illinois River watershed is applied in the Illinois 4:25PM  
21 River watershed, correct?  
22 A That's correct.  
23 Q In fact, a lot of it is not applied in the  
24 Illinois watershed?  
25 A I don't know the number of how much is transported 4:25PM